87-1148

Supreme Court, U.S.
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Case No. _____

SUPREME COURT OF THE UNITED STATES

ANNUAL TERM BEGUN AND HELD OCTOBER 1987

TITLE:

THE PEOPLE OF THE STATE OF ILLINOIS
Plaintiff-Appellee

vs

ROBERT E. NORTON
Defendant-Appellant

On Appeal from the Supreme Court, State of Illinois, Springfield

No. 65378

JURISDICTIONAL STATEMENT
Also, bound herein:
MOTION TO ACCEPT JURISDICTIONAL STATEMENT FOR FILING INSTANTER

For appellant:
Robert E. Norton (Acting *pro se*)
407 Fairlane
Pekin, IL 61554
Tel. No. (AC 309) 346-9518

25 pp

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SUPREME COURT OF THE UNITED STATES

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THE PEOPLE OF THE STATE OF ILLINOIS
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ROBERT E. NORTON
Defendant-Appellant

On Appeal from the Supreme Court, State Of Illinois, Springfield

No. 65378

JURISDICTIONAL STATEMENT

I. The following questions are presented by this appeal:

A. The basic question that has not yet been addressed in its entirety thus far in the present cause is that of fundamental and inalienable retained rights guaranteed the people under the United States Constitution in its Bill of Rights, in this instance under the provisions *conjunctively (and there is one of the key points)* of the First and Ninth Amendments, along with the provisions of the Tenth Amendment in its strengthening and giving fuller import to those of the Ninth. (Those three Bill of Rights Amendments to the United States Constitution just referred to, as part of the fundamental laws of the land and, as such, sufficient unto themselves as applicable to the present cause, are the *only laws of the land* that may have any bearing at all in *supporting the basic position in presentations for the appeal by the defendant-appellant* in the present instance; and this is as further

detailed in Illinois Third District Appellate Court at length in, primarily, Section B-1 in Part II of the Brief in Appeal.)

Those three Bill of Rights Amendments here referred to, relative to their being the sole support in the appeal of this cause, have been shown to be the key elements there in connection with this constitutional question being presented which relates to the acceptance by a person or persons of the optional practice of simple nudity in common – whether in a "private" or a so-called "public" sphere – within the framework and as an integral part of a people's right relative to personal worship, and which gains support from an adherence by the person or persons to the fundamental concepts embodied in the Judaeo-Christian heritage as represented in the Old and New Testaments, in which there is no specifying any proscription to the optional practice of mere nudity in common regardless of the sphere of that practice. In this connection with the people's right, in such a framework, to that optional practice of simple nudity (by those who claim the right), we are brought to the question under the United States Constitution that has not yet been satisfactorily addressed in its entirety in the present cause and which has bearing there on one of the main keys to the issue as very specifically presented by the appellant relative to this rightful practice coming under the *protection of inalienable retained rights of the people GUARANTEED UNDER CONJUNCTIVE PROVISIONS* of the Ninth Amendment together with the freedom of worship provisions of the First Amendment.

B. The failure to acknowledge, in the review by the Illinois Appellate Court, that the appellant's Case from the inception of its appeal has been based on both Article I and Article IX arguments conjunctively, contributes further in retaining the question: Has it not apparently been intentionally ignored over and again that there have been statutes interpreted and promulgated, under the pretext of providing protection for the health and welfare for society as a whole, which are none the less in conflict with the Ninth Amendment thus attempting to abrogate rights of the people?

C. Assuming that law enforcement officers investigating an alleged incident involving the accused (appellant herein), this in

response to a "Call 44" reporting lewd and lascivious behavior, the question immediately arises whether or not there in fact is involved any such occurrence that in truth could come under that purported heading of lewd and lascivious behavior. Any complainant in this connection should be able to specify to the investigating officers the exact nature of the lewd and lascivious behavior and what that behavior actually consists of that unquestionably makes it properly come under such a description. (Should the officers upon further investigation at the behest of the complainant find nothing to substantiate the report but instead find, for example, only an individual who is or has been engaged in routine yard maintenance and who is either scantily clad or even completely devoid of wearing apparel due either to the extremely hot or to the unseasonably warm weather and the simple nature of the work being performed, in that instance is there not then nothing for the officers to do but to reject the alleged complaint because of insufficient grounds for it and at the same time to notify the complainant accordingly with a warning also that complaints of this nature should not be made unless there are more specific and concrete facts that the complainant presents which can with little doubt back up the alleged nature of the accusations in those complaints?)

In keeping with the United States Supreme Court findings in the late 1950's against the Post Office Department to the effect that mere nudity of itself does not thereby constitute anything at all of a lascivious nature – or in other words that "nude is not lewd" – is it not plainly evident that reports of instances of simple nudity in common thus can not be used with that simple nudity of itself as a valid basis for a complaint against "lewd and lascivious behavior"? It would also be plainly evident, would it not, that in any application of a statute such as the Illinois disorderly conduct statute in instances where simple nudity is wrongfully interpreted as representing lewd and lascivious behavior and this simple nudity wrongfully used of itself as sufficient grounds for the application of that statute, an immediate question arises of whether or not such interpretation properly supports lawful application of the statute: In those instances would not that application thus become repugnant to the Constitution of the United States and therefore invalid in that such application thereby attempts to abrogate the people's rights guaranteed by the United States Constitution under the provi-

sions – as the appellant has persisted in maintaining in these causes – of the First Amendment *in conjunction* with the Ninth Amendment therein, to the practice of simple nudity? (For primary details of appellant's persistence thus, reference need only be made just to sub-paragraph A here of this section I.)

(Again with this more specific regard to the optional practice of simple nudity in common, the accused would like to point out that he is resolutely continuing in his persistence that there is constitutional basis, founded under the freedom of worship provisions of the First Amendment *in conjunction* with the Ninth Amendment in the Bill of Rights of the United States Constitution, that guarantees the people their inalienable retained right to that practice for any and all who so claim that right.)

D. There is a question which may in some way appear subsidiary to the foregoing one, yet it is of such critical nature as to here require its special emphasis, namely, the dubious departure in this Case from this country's traditional procedures and historic safeguards against abrogation of individual rights, including the right in all criminal procedures to receive the benefit of any reasonable doubt. In this connection, aside from the fact that the mere appearance, completely nude, of the accused (concerning which fact, of course, there has been here no denial whatever) in an alleged incident is the sole basis expressed on behalf of the plaintiff to proceed with action against the accused, the appellant in his presentations has pointed to questionable action on the part of the plaintiff in presenting testimony for the prosecution, although not openly alleging, that nevertheless indirectly attempts to show only through improper subtle inferences that the accused was also engaged in further "objectionable" conduct at the time of the incident; such questionable directing of the case by the prosecution indicates that unacceptable attempts thus to assign through subterfuge additional guilt to the accused, which was neither included in the initial charges nor born out during the trial proceedings in any way, unlawfully represent an undermining of the basic protections under the Bill of Rights against false of misdirected accusations and a circumventing by device of that protection in the present cause to the accused, under which basic protection *guilt as a result of accu-*

sation alone can thereby never be established. In addition to postulating further aspects in this connection, the appellant has shown that the intent of the varied arguments in the appeal has for one of its main purposes to show the thorough and unquestionable inadequacy for any relevancy here of the unacceptable attempts at further but misdirected accusations.

In summary of this point, it is strongly felt that here the questions definitely arise whether undue influence was at all events given during the trial proceedings to this questionably directed prosecution of the case by the plaintiff regarding that aspect, and as to a further improper result of that undue influence whereby the findings of the trial court do not all represent due consideration having been given the defendant-appellant with regard to the point here being emphasized – his right to receive the benefit of any reasonable doubt, as that right pertains here to the foregoing aspect in the matter at bar. (More particular details referring to the aspect of unjust accusations will permit at times an additional postulating with regard to whether or not a basic Bill of Rights protection – wherein there are guarantees against wrongful assignment of guilt as a result of accusation alone – is always acknowledged and correctly observed: If one assumes that wrongfully the findings of the trial court in this instance were in all probability based there for the main part on the aspect here being discussed, although the attempt through cleverly deliberate though actually insufficient and faulty presentation on behalf of the prosecution to assign additional but misdirected guilt to the accused *was not at all substantiated during the trial by any proof or evidence whatever,* then the guilt of the accused in those proceedings was *wrongfully established as a result of accusations alone, thereby violative of the protection required to be accorded through the basic principles of our Bill of Rights.)*

E. "Naturism", as defined at page 6 of Exhibit A in the "Addendum to Brief in Appeal", includes the optional practice of complete nudity in common, and the question is raised regarding that practice of simple nudity being more basic than whatever may be attributed to it by the mere "philosophy" of any single individual; and rather on the other hand, being a matter directly involved with the

people's inalienable rights as conceived by the founding fathers of a great land of freedom, such unconstrained practice of simple nudity not in any manner posing a problem to order in any of the aspects of organized society. As such it is relative rather to this *normal and natural practice* of an integral and intrinsic simple nudity in common, *conforming with a freely chosen lifestyle*, for any and all persons who so choose the right – *a natural right guaranteed in connection with the inalienable retained rights of the people* under the provisions *conjunctively* (and this is the primary key in these causes) of the First and Ninth Amendments, along with the provisions of the Tenth Amendment in its strengthening and giving fuller import to those of the Ninth. The provisions especially of the Ninth Amendment support practices that were, as accepted norm, within the rights of the people during colonial times and at the time of, as well as subsequent to, the founding of this great republic, one of those rights then being the ordinary practice, whether public or private, of mere nudity in common and which practice continued to be a norm by persons of all ages, shapes and sizes – these people being primarily from Judaeo-Christian backgrounds immigrating from the various European countries where these people had long observed, down through the centuries, such natural as well as normal rights as the ordinary practice of mere nudity in common.

II. The following additional question, specially related to this appeal, is also here presented:

It must be first pointed out here that the twofold purpose of the initial Appeal, taken by the defendant-appellant to seek review of the findings against the appellant by the trial court in jury trial, and to *seek review of the conditions of the sentencing subsequently imposed by that court*, is in accordance with Supreme Court Rule 604, Chapter 110A, Ill. Rev. Stat., and *more particularly in subparagraph (b) thereof, Appeals When Defendant Sentenced to Probation.*

The question that has been specially raised, and which is here again cited with regard to the matter of review of the conditions of the sentencing, has reference to the abrogation of rights of the appellant under the Fifth Amendment due, it is being contended throughout the

instant appeals, to wrongfully impose double multiple punishment in this instance. The point which, it is further contended with regard to this matter, has been overlooked by the lower reviewing courts in connection with the appellant's being simultaneously sentenced to probation in both Cases – that sentencing to probation having particular specified conditions including a period of confinement – underscores the fact that the unique way in which the sentencing to probation was imposed in these two Cases is properly governed by the *only applicable statutory provisions pertaining in this instance*, those applicable provisions only of *Sections 1005-6-2* and *1005-6-3* in the Unified Corrections Code, Chapter 38, Ill. Rev. Statutes; and hence, the wrongful reference by the trial court to other *additional provisions, inapplicable in this instance*, of that Unified Corrections Code – Section 1005-8-4(b) – in connection with the court's imposition of the sentencing to probation, resulted in the erroneous commitment – *doubly in each of the two Cases* it must be pointed out – to multiple punishment in this instance. Specifically as a consequence, in connection with the two simultaneous convictions and sentences to probation which were imposed at the same time, the appellant has *wrongfully served consecutively* the two 30-day periods of confinement, one period for each of the two convictions, this confinement being at variance with the *only applicable provisions pertinent in this instance* of *Sections 1005-6-2* and *1005-6-3*, cited above, which specify that multiple terms imposed at the same time be served concurrently.

For the detailed arguments of the appellant in support of the question just raised with regard to this abrogation of rights, reference is made to Section III-B of "Petition for Leave to Appeal as of Right" filed in the Illinois Supreme Court on August 6, 1987; the clarification there of those arguments were in addition to those already made earlier with regard to this matter in Part I of appellant's "Petition for Rehearing in Reviewing Court" (in the appellate court), copy of which petition was also filed, as a supporting document to "Motion to Recall the Mandate of the Appellate Court," on June 4, 1987, in the Illinois Supreme Court, Springfield.

III. Following is a list of all parties, both to the proceeding in the Illinois Appellate Court, Third District at Ottawa, and to the action taken

in the Illinois Supreme Court at Springfield, the review of whose final decree is being sought:

For appellee:

State's Atty. Erik I. Blanc
Tazewell County
Pekin, IL

Atty. Gen. Neil F. Hartigan
State of Illinois
Springfield, IL

State's Attorneys Appellate Service Commission
%Deputy Director John X. Breslin
Third District Office
Ottawa, IL

For appellant:

Robert E. Norton (acting *pro se*)
Pekin, IL

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1. There are no official or unofficial reports of opinions delivered below.

2. Grounds on which the jurisdiction of the Supreme Court of the United States is invoked:

a. On appeal from the Supreme Court, State of Illinois, Springfield, No. 65378.

b. Review is sought of the final decree entered Oct. 7, 1987, in the Illinois Supreme Court at Springfield. The "Notice of Appeal to the Supreme Court of the United States" was filed Oct. 24, 1987, in the Supreme Court, State Of Illinois, Springfield, with copy also filed same date in the Appellate Court of Illinois, Third District at Ottawa.

c. The following statutory provisions serve to confer jurisdiction of this appeal on the Supreme Court of the United States: 28 U.S.C. 1257(2) (State courts; appeal)

3. The Case involves the following provisions:

a. Fifth Amendment to the Constitution of the United States. "Article V. No person shall be held to answer for...; *nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb;* nor shall be compelled in any criminal cast to be a witness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be..."

b. First Amendment to the Constitution of the United States. "Article I. Congress shall make no law respecting an establishment of religion, or prohibit the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peacably to assemble, and to petition the Government for redress of grievances."

c. Ninth Amendment to the Constitution of the United States. "Article IX. The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

d. Tenth Amendment to the Constitution of the United States. "Article X. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

e. Illinois Revised Statutes, Chapter 38, Section 26-1(a)(1). "26-1 Elements of the Offense. (a) A person commits disorderly conduct

when he knowingly: (1) Does any act in such unreasonable manner as to alarm or disturb another and to provoke breach of the peace"

4. There now follows a Statement of the Case:

a. In connection with the present cause, the appellant was charged on two occasions by information with the offense of Disorderly Conduct in that, first on June 8, 1985, it was alleged, he knowingly picked up leaves in the lawn of 407 Fairlane Street in such an unreasonable manner as to alarm and disturb Fred Hogue and provoke a breach of the peace, in that he picked up leaves while attired only in a hat, a sweatshirt, socks and boots, and on the second occasion on Sept. 8, 1985, it was alleged, he knowingly raked leaves in his backyard while only wearing shoes, hat and gloves, in such an unreasonable manner as to alarm and disturb Frederick Hogue and to provoke a breach of the peace, in violation of Illinois Revised Statutes, Chapter 38, Section 26-1(a)(1). The basic question as detailed initially in paragraph I-A of this Jurisdictional Statement is that of fundamental and inalienable retained rights guaranteed the people by our Bill of Rights. In presenting the basic question in the Appellate Court of Illinois, Third District at Ottawa, the matter of these fundamental rights was just as clearly outlined – being maintained at 3,4 and 5 in Part I of Brief in Appeal and especially further detailed at length at 17 - 20 in Section B-1, Part II of appellant's Brief in Appeal; also as already pointed out initially in paragraphs I-A and I-B of this Jurisdictional Statement, the review by the appellate court did not address in its entirety this basic question – failing even to acknowledge that the appellant's Case in its appeal has been based on both Article I and Article IX arguments *conjunctively*. (This latter fact is equally true with regard to this appellant's appeal of prior cases – 3rd Dist., 1982, Dkt. No. 81-483 and 3rd Dist., 1984, Dkt. No. 84-0248 – the reviews in those instances by the appellate court also failed there to address in its entirety this same basic question, presented by the appellant in identical fashion in all three appeals.) The balance of the questions raised in this Jurisdictional Statement in connection with the basic cause in this instance were here being presented to support what the appellant contends reflect, in the appellate court's review, the apparent echoing by that honorable court of the arguments of the appellee,

with the result that the court thus avoided addressing in its entirety the basic question raised herein by the appellant.

b. Related special question being raised in this appeal with its twofold purpose, and one which thus has therein equal import with regard to a statement of the case, is relative to relief also being sought by appellant due to an abrogation in these instances of his rights under the Fifth Amendment. It is raised here in connection with the setting aside of the erroneously imposed sentences which it is contended ~~was~~ were imposed in these Cases, since the *only applicable statutes pertaining in these instances* – Sections 1005-6-2 and 1005-6-3 of the Unified Correction Code of Chapter 38, Ill. Rev. Stat. – specify that multiple terms of probation, of which the periods of confinement also imposed here are a particularly specified part, shall be served concurrently. Thus this erroneous double punishment as regards the two 30-day periods of confinement (which, it is further pointed out, have already been consecutively served by the appellant) has resulted in an abrogation of rights under the Fifth Amendment, in that the defendant-appellant in these instances has been subjected – in connection with both of these simultaneous convictions during that erroneous confinement resulting from the trial court proceedings – for the same offense to being twice put in jeopardy of life or limb following this *lack of conformity* by the sentencing court in this matter to the *specific provisions* of the *only applicable statutes pertaining there.*

5. Statement presented for the substantiation of plenary consideration:

a. An abrogation of inalienable retained rights of the people – yet in instances involving minority groups of the people as contrasted with the populous as a whole – is comparable to no less than abrogation of the people's freedom of speech and freedom of assembly rights – yet also in instances there involving minority groups of people. (And, may we add significantly here, of no less importance as well than a question in connection with freedom of the press – the "press" itself, although unquestionably representing a very important segment, being constituted actually however of only a very diverse as well as variously oriented group which is also but a significant minority of the total populous.)

BEST AVAILABLE COPY

There is no more important substantiality to a First Amendment question in connection with an alleged denying a minority group the right peaceably to assemble, whether in a private sphere or in a public sphere, and depriving that group means of communication by a further alleged denial to them of freedom of speech in that assembly, than there is to a Ninth Amendment constitutional question, for example, in connection with an alleged denying another minority group's *inalienable retained right of the people to have a freely chosen lifestyle* – whether in a private sphere or in a more "so-called" public sphere – which permits, also as a part of that inalienable retained right of the people, *the inclusion as well of an accompanying and regularly exercised, normal and natural practice in connection with a freely chosen option in the amount of individual wearing apparel worn at any given time, even including the complete lack of any apparel* (an option ordinarily influenced or dictated *naturally and reasonably* by requirements, nay even *at times by urgent necessities*, of the particular season). In point of fact, opinion polls taken in recent years indicate that a large multitude of the citizenry have been supporting freely chosen practices of such clothing-optional lifestyles, many in total agreement with their moral support of the question, as well as those – perhaps a great many more than a significant minority – who actively participate in a frequent practice, according to the season, of an integral and intrinsic simple nudity in common.

Finally, in summarizing this crucial point we would here make it further stressed, thus: Both being completely within the scope of the Bill of Rights of the U.S. Constitution, hence each sufficiently presenting a valid Federal question – *neither question of less substantial import and consequence than the other in their direct and decisive relationships to the basic constitutional guarantees of this great Nation to its people* – whether it be in connection with an abrogation of one minority group's First Amendment freedom of expression and assembly rights or in connection with an abrogation of another significant minority group's inalienable retained right – as that just cited in the foregoing paragraph – basically guaranteed the people under the Ninth Amendment, *in both instances there is equally due a full review including a complete and satisfactory addressing of those valid and substantial constitutional questions, both in their entirety in connection*

with the alleged abrogations, by the highest tribunal in the land absent such addressing in their entirety by lower reviewing courts.

b. Reference is here made to abrogation of Fifth Amendment rights (see para. 4-b, just above). It is felt that substantiation of plenary consideration here for that matter is self-expalnatory in said para. 4-b.

c. The legal authorities cannot rightfully accept a complaint from any person or persons purportedly exercising the right for redress of grievances under the First Amendment to the United States Constitution, using as a basis for filing the complaint any law, ordinance or statute including the Illinois Revised Statue cited in the present cause, if the alleged complaint is making objections to matters that represent adherence within the compass of the purported violator's guaranteed rights; in such instances there is no constitutional validity for any and all of those complaints making such objections. There is no doubt that those interpretations of the foregoing statement in any given instance, as in the present causes, wherein rampant ambiguities are brought to light in connection with the alleged complaint – of supposedly simple nature here – can at all events be but one more real determining factor why the questions presented herein – bearing on these causes supported by basic intrinsic rights – are indeed so substantial, as well as having also direct significant relationships to the basic constitutional guarantees of the people's rights, that upon ultimately being addressed in their entirety and thereby receiving their full due import which thus far has been lacking, they must require plenary consideration.

In view of the three foregoing presentations just made on behalf of the appellant, it is now here earnestly prayed that such plenary consideration given to briefs in the Case submitted on the merits may result in the resolution of various questions of basic and urgent importance in connection with these guaranteed rights of the people.

Robert E. Norton, Appellant
(Acting *pro se*)

APPENDIX

1. See number 3 of this Appendix concerning copy of decree appealed from. (There are no opinions, orders, findings of fact, or conclusions of law delivered in the Case in connection with the final decree of the Illinois Supreme Court, the court whose decision is sought to be reviewed.)

2. The following is copy of an order entered March 30, 1987, with the decree rendered in this Case by the Appellate Court of Illinois, Third District at Ottawa:

3-86-0480
People v. Norton

At a term of the Appellate Court, begun and held at Ottawa, on the 1st Day of January in the year of our Lord one thousand nine hundred and eighty-seven, within and for the Third District of Illinois:

Present –

HONORABLE TOBIAS BARRY, Presiding Justice

HONORABLE ALLAN L. STOUDER, Justice

HONORABLE WILLIAM B. WOMBACHER, Justice

HONORABLE JAMES D. HEIPLE, Justice

HONORABLE ALBERT SCOTT, Justice

JOSEPH FENNESSEY, Clerk

BE IT REMEMBERED, that afterwards on March 30, 1987 the Order of the Court was filed in the Clerk's Office of said Court, in the words and figures following viz:

NO. 3-86-0480

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 1987

PEOPLE OF THE STATE OF ILLINOIS,	Appeal from the Circuit Court of
Plaintiff-Appellee,	Tazewell County
vs.	
ROBERT E. NORTON,	Honorable Charles J. Perrin,
Defendant-Appellant.	Presiding Judge

PER CURIAM. "Not To Be Published"

A jury found the defendant, Robert E. Norton, guilty of two charges of disorderly conduct. (Ill. Rev. Stat. 1985, ch. 38, par. 26-1 (a) (1).) The trial court sentenced him to consecutive terms of 30 days in jail, ordered him to pay a $500 fine and court costs, and placed him on probation for six months. The defendant appeals.

The record shows that on June 8, 1985, the defendant walked around his yard picking up leaves, while dressed only in a hat, a sweat shirt, socks and boots. On September 8, 1985, the defendant raked leaves in his backyard, while wearing only shoes, a hat and gloves. The defendant's yard is unfenced and in the plain view of his neighbors, one of whom called the police in each instance. The defendant has filed a motion to amend the record in this case, alleging inaccuracy.

Having examined the record, we find no basis for his allegations and therefore deny his motion.

On appeal, the defendant first argues that the trial court did not have the authority to make his sentences consecutive rather than concurrent.

Section 1005-8-4 (b) of the Unified Code of Corrections provides:

> "The court shall not impose a consecutive sentence unless, having regard to the nature and circumstances of the offense and the history and character of the defendant, it is of the opinion that such a term is required to protect the public from further criminal conduct by the defendant, the basis for which the court shall set forth in the record."
> Ill. Rev. Stat. 1985, ch. 38, par. 1005-8-4 (b).

In the instant case, the trial court stated that it was imposing consecutive sentences because the defendant had, within the last five to seven years, been convicted of the same offense at least seven to eight times. We find that the court did not abuse its discretion. See *People v. Coleman* (1st Dist., 1980), 91 Ill. App. 3d 646, 415 N.E. 2d 553.

Second, the defendant argues that two sentences for the same charge constitute impermissible double jeopardy.

The double jeopardy clause of the Fifth Amendment to the U.S. Constitution prohibits a second prosecution for the same offense after acquittal; a second prosecution for the same offense after conviction; and multiple punishments for the same offense. *North Carolina v. Pearce* (1969), 395 U.S. 711, 23 L. Ed. 2d 656, 89 S. Ct. 2072.

In the instant case, the defendant committed two separate offenses. Although the charges were identical, one act of disorderly conduct occurred on June 8 and the other on September 8. Accordingly, no error occurred.

Third, the defendant argues that he has a right under the First,

Ninth and Tenth Amendments to the U.S. Constitution to be naked in his open backyard. Specifically, he asserts that the State is infringing upon his constitutionally guaranteed right to practice naturism and its concomitant practice of public nudity.

The defendant has made these same arguments to the court, based on very similar facts, twice previously. Once again, having examined our prior decisions, we find that the defendant does not have a constitutional right to express his belief in naturism by going naked in public. See *Chapin v. Town of Southampton* (E.D. New York, 1978), 457 F. Supp. 1170.

Fourth, the defendant argues on appeal that a statement by the State's complaining witness that "*** you can't have a birthday party with a man running around nude ***," unduly prejudiced the jury against the defendant by implying lewd conduct; that it was error for the State to allege in its opening statement that there were children who could see the defendant naked; and that the complaining witness's reaction to the sight of him naked was somehow error.

Having examined the record, we find that the complaining witness did not imply that the defendant was doing anything lewd. We further find that the complaining witness testified that there were children in an adjoining yard with a view of the defendant's yard. Finally, we find nothing overly sensitive in the compalintant's desire to not have the defendant walking around naked in public view.

Accordingly, the judgement of the circuit court of Tazewell County is affirmed.

Affirmed.

STATE OF ILLINOIS,
APPELLATE COURT, ss.
THIRD DISTRICT,

As Clerk of the Appellate Court, in and for said Third District of the State of Illinois, and keeper of the Records and Seal thereof, I do hereby certify that the foregoing is a true, full and complete copy of the opinion of the said Appellate Court in the above-entitled cause, now of records in this office.

In Testimony Whereof, I hereunto set my hand and affix the seal of said Appellate Court, at Ottawa, this 30th day of March in the year of our Lord one thousand nine hundred and eighty-seven.

/s/ Joseph Fennessey

Clerk of the Appellate Court

3. In connection with the final decree appealed from, in the decision of the Illinois Supreme Court entered Oct. 7, 1987, the following is copy of letter of notification from that agency relative to that decree:

65378

ILLINOIS SUPREME COURT
JULEANN HORNYAK, CLERK
SUPREME COURT BUILDING
SPRINGFIELD, ILL. 62706
(217)782-2035

October 7, 1987

Mr. Robert E. Norton
407 Fairlane
Pekin, IL 61554

No. 65378 – People State of Illinois, respondent, v. Robert E. Norton, petitioner. Leave to appeal, Appellate Court, Third District.

The Supreme Court today DENIED the petition for leave to appeal in the above entitled cause.

The mandate of this Court will issue to the Appellate Court on October 29, 1987.

4. The following is copy of "Notice of Appeal to the Supreme Court of the United States" filed Oct. 24, 1987, in the Supreme Court, State of Illinois at Springfield, (transmitted on that date by the appellant via U.S. Mail, postage prepaid, accompanied by Proof of Service) with copy also filed in the same manner on that same date in the Appellate Court of Illinois, Third District at Ottawa:

No. 65378

SUPREME COURT OF ILLINOIS
SPRINGFIELD

TITLE:

THE PEOPLE OF THE STATE OF ILLINOIS
Plaintiff - Appellee

vs

ROBERT E. NORTON
Defendant - Appellant

Circuit Court Number 85-CM-944
Number 85-CM-1456
Circuit Court of the Tenth Judicial Circuit of Illinois
Tazewell County, Associate Division
Charles J. Perrin, Trial Judge

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

I. Notice is hereby given that Robert E. Norton, the appellant above named (acting in his own behalf, pro se) hereby appeals to the Supreme Court of the United States from the final decree, entered herein on Oct. 7, 1987, of the Illinois Supreme Court; said decree – in

rejecting the "Petition for Leave to Appeal as of Right" submitted by the appellant in the above entitled causes – automatically permits the judgements of conviction to stand as affirmed by the decision and order entered March 30, 1987, in the Illinois Third District Appellate Court, Ottawa, Case No. AC3-86-0480.

This appeal is taken pursuant to United States statute 28USC1257(b) (State Courts: Appeal).

Appellant was convicted of disorderly conduct, as a result of charges which were brought on two different occasions after the appellant was observed in his back yard, first, on June 8, 1985, while picking up leaves attired in a hat, a sweatshirt and boots and, second, on Sept. 8, 1985, while raking leaves there wearing just shoes, hat and gloves – those charges both specifying violation of Illinois Revised Statutes, Chapter 38, Section 26-1(a)(1); a sentencing to 6 months' probation was imposed for each of the two Cases with special conditions thereto being payment of a fine, $500 for each of the two Cases, and the serving of a 30-day jail confinement, as particularly specified parts of each of the two sentences to probation – the Certificates of Conditions of Probation in both instances further specifying the two 30-day period of confinement to be served consecutively; after having completed the serving of the two probation period, which run concurrently, as well as having completed the two consecutively served 30-day terms of confinement, appellant is presently being continued on bail in the total sum for both Cases of $3000 (10%), with the total bail bond standing (pending final disposition of the instant appeal) toward payment of the balance due on the special condition in connection with the sentencing to probation of the imposed fine.

II. The clerk will please prepare the Illinois Supreme Court record in these causes as will, similarly, the clerk of the Third District Appellate Court, Ottawa, please prepare the record on appeal in these causes in the possession of that court, for transmission to the clerk of the Supreme Court of the United States.

/s/ Robert E. Norton, Appellant (*pro se*)
407 Fairlane, Pekin, IL 61554
Oct. 24, 1987

cc: Clerk of the Court, Illinois Appellate Court, Third District, Ottawa 61350
cc: Clerk of the Circuit Court, 10th Judicial Circuit, Tazewell Cty, Pekin, IL 61554

Case No. _____

SUPREME COURT OF THE UNITED STATES
ANNUAL TERM BEGUN AND HELD OCTOBER 1987

TITLE:

THE PEOPLE OF THE STATE OF ILLINOIS
Plaintiff-Appellee
vs
ROBERT E. NORTON
Defendant-Appellant

On Appeal from the Supreme Court, State of Illinois, Springfield

No. 65378

MOTION TO ACCEPT JURISDICTIONAL STATEMENT FOR FILING INSTANTER

I , Robert E. Norton, appellant (acting *pro se*) in the above entitled Case, hereby respectfully submit a motion that this honorable court give favorable consideration to granting the acceptance for filing instanter, in the Supreme Court of the United States, of the appellant's Jurisdictional Statement (together with which this motion is bound) in connection with the further appeal of his Case.

The short delay in the scheduled filing is due to the fact that the burden of the defendant-appellant's being by considered preference his own counsel *pro se*, and of necessity his performing all the preparatory clerical work, etc., involved in the appeal, has been made also more acute in view of a vision problem of the appellant with the close workload causing eye strain unduly, even though corrective glasses are worn.

Robert E. Norton, Appellant
(Acting *pro se*)